

E-Filed 9/23/10

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

VLADIMIR A. BALAREZO, individually and on
behalf of others similarly situated,

Plaintiff,

v.

NTH CONNECT TELECOM, INC., AND
STEVEN CHEN,

Defendants.

Case Number 5:07-cv-05243-JF (PVT)

ORDER¹ DISMISSING WITH
PREJUDICE CLAIMS OF CERTAIN
PLAINTIFFS FOR FAILURE TO
PROSECUTE

Defendants moved previously pursuant to Federal Rule of Civil Procedure 41(b) to dismiss with prejudice the claims of Plaintiffs Luis Cabrera (“Cabrera”), Abelardo Guerrero (“Guerrero”), Xay Lee (“Lee”), James Morgan (“Morgan”), Jean-Marie Pierre (“Pierre”), Richard Tran (“Tran”), and Henry L. Webb (“Webb”), alleging that these Plaintiffs had failed to attend Court-ordered mediation sessions. In an order dated August 3, 2010, the Court denied Defendant’s motion without prejudice and ordered Cabrera, Guerrero, Lee, Morgan, Pierre, Tran, and Webb to show cause why their claims should not be dismissed for lack of prosecution. Plaintiffs were required to respond on or before September 10, 2010 and were advised that

¹ This disposition is not designated for publication in the official reports.

1 failure to respond could result in the dismissal of their claims with prejudice. (Docket No. 144 at
2 7:6-11.) Cabrera responded both through a written declaration, (Docket No. 146), and by
3 appearing in person at a hearing held on September 10, 2010, (*see* Docket No. 149). Cabrera
4 declares that he has participated in each of the “settlement proceedings” that “required [his]
5 attendance.” (Docket No. 146.)

6 Cabrera’s declaration and appearance establish good cause with respect to why his claim
7 should not be dismissed for lack of prosecution. Guerrero, Lee, Morgan, Pierre, Tran, and Webb
8 have not responded to the order to show cause. Accordingly, the claims of Guerrero, Lee,
9 Morgan, Pierre, Tran, and Webb will be dismissed with prejudice.

10 IT IS SO ORDERED.

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12 DATED: 9/20/10

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JEREMY FOGEL
United States District Judge

1 This Order was served on the following persons:

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